

REMARKS

This paper is responsive to the Office Action mailed May 2, 2007. Claims 1-5, 7-16, 18-33, 35-40, and 42-46 are pending in the application. Applicant has amended Claims 1, 11, 12, 29, 32, 33, 35, 39, 40, and 42-46. Claims 6, 17, 34, and 41 have been canceled.

Interview Summary

The undersigned counsel thanks Examiner Liversedge for the time and courtesy she extended in a personal interview conducted August 30, 2007. The interview focused primarily on independent Claim 1 and the patentability of the claims over Lupien '353. Applicant agreed to formally submit the present amendment for further consideration.

Claim Objections

Applicant thanks Examiner for noting the informality in the numbering of Claims 36-46. The claim numbering has been corrected, and amendments have been made to Claims 29 and 42-46 to update the claim dependencies, thus overcoming the objection to the claims.

Patentability of Claims Over Lupien

Claims 1-27, 30, 33-37, and 40-44 were rejected as being anticipated by U.S. Patent No. 5,101,353, to Lupien et al. (hereinafter "Lupien"). Claims 28-29, 31-32, 38-39, and 45-46 were rejected as being unpatentable over Lupien in view of U.S. Patent No. 6,377,940, to Tilfors et al. (hereinafter "Tilfors"). While applicant does not concede the propriety of the claim rejections, applicant has amended and canceled claims as noted above. Applicant respectfully submits that neither Lupien nor the combination of Lupien and Tilfors teaches each and every element recited in the pending claims. Accordingly, withdrawal of the claim rejections and allowance of the application is proper.

Claims 1-5, 7-11, and 27-29

Claim 1, in part, recites "retrieving a decision table . . . wherein the decision table further includes a holding tank capable of storing a plurality of orders that have been generated but not yet submitted for execution at a market." Claim 1 further recites "wherein at least one action of

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at least one rule in the decision table is to store an order in the holding tank, the holding tank having one or more market-related conditions associated therewith, the method further comprising monitoring the one or more conditions of the holding tank and when the one or more conditions are met, removing the orders from the holding tank and taking at least one specified action with respect to each of the removed orders." As noted in applicant's prior response, support for these elements is found in the present application, for example at page 28, lines 4-13, and at page 48, line 11 to page 50, line 4 of the application as filed.

Applicant submits that Lupien does *not* teach all of the elements of Claim 1. For example, Lupien does not teach a method using a decision table, wherein the decision table includes a holding tank as claimed. According to Lupien, as soon as an order is generated, it is submitted to a market for execution, be it a market internal to Lupien's system or to one or more computerized exchanges, brokerage services, or market access networks. See, e.g., Col. 10, lines 24-29 ("The resultant analysis will be used in step 40 to generate buy and sell orders and/or sets of orders at specific prices for transmission by the system both internally to other clients and externally to outside broker dealers, exchanges and/or others for each security in the client's portfolio . . . "). To the extent an order is sent to broker dealers or "others," Lupien describes the order as being submitted to a market. For example, at Col. 11, lines 10-37, Lupien explains (emphasis added):

A particular advantage of this invention is that clients running their own balancing algorithms may in step 42 alter any order *on the system* by changing, cancelling or adding to it. What differentiates this capability, as implemented by this invention, from others that allow the keyboard or computerized entry of orders into computerized securities trading systems is that the system of the invention allows computers to alter and receive confirmation of order changes *on national markets* with a delay of only seconds. For *orders that have been placed outside of the system* due to direct connection with automated brokers and/or exchanges, such as INSTINET and the CINCINNATI Stock Exchange, through external data terminal 22, the speed of the cancellation or altering process depends on the response time of these other computers. By comparison, *orders placed on other electronic order routing systems*, such as the Designated Order Turnaround (DOT) system of the New York Stock Exchange, for example,

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although entered by computer, still generally depend for execution on human specialists or traders who must ultimately react to the order. Hence, undesirable and unexpected delays are inherent. This invention substantially removes such problems. Manual alteration of orders, although not usual due to the speed of operation of the system and the reliance on trading algorithms, is also available to clients at step 42.

In circumstances where Lupien's system decides not to generate an order, the system, by default, maintains the current position of the portfolio it is managing. See, e.g., Col. 10, lines 61-64. In any case, Lupien does not teach or suggest storing orders in a holding tank as claimed in the present application, where the orders have been generated but not yet submitted for execution at a market.

With respect to element 70 of Figure 8, Lupien explains "Users of this system place orders with controller CPU 10 which in block 70 stores and maintains a list, referred to in the industry as a "book", of such orders ranked by price, source (internal or external of the system), size and time of order." (Col. 12, lines 61-66). Orders that are in a market's book have been submitted to the market. They do not constitute "orders that have been generated but not yet submitted for execution at a market," as recited in Claim 1.

For the above reasons, applicant submits that Claim 1 is not taught by Lupien and thus should be allowed. Claims 2-5, 7-11, and 27-29 are also patentable for their dependency on Claim 1 and for the additional subject matter they recite. Tilfors does not disclose a plurality of holding tanks as claimed nor does Tilfors overcome the other deficiencies of Lupien discussed above.

Claims 12-16, 18-26, and 30-32

Claim 12 recites, in part, a method of facilitating trading that includes "retrieving . . . a decision table representing an order processing methodology . . . wherein the decision table further includes a holding tank capable of storing a plurality of orders that have been generated but not yet submitted for execution at a market, and . . . wherein at least one action of at least one rule in the decision table is to store an order in the holding tank, the holding tank having one or more market-related conditions associated therewith, the method further comprising monitoring

the one or more conditions of the holding tank and when the one or more conditions are met, removing the orders from the holding tank and taking at least one specified action with respect to each of the removed orders."

For reasons similar to those discussed above with respect to Claim 1, applicant submits that Claim 12 is patentable over Lupien. Lupien fails to teach or suggest all of the elements of Claim 12 as required to establish a *prima facie* case of anticipation. Claim 12 should be allowed.

Claims 13-16, 18-26, and 30-32 are also allowable for their dependency on patentable Claim 12 and for the additional subject matter they recite. Tilfors does not disclose a plurality of holding tanks nor does it overcome the deficiencies of Lupien.

Claims 33 and 35-39

Claim 33 is directed to a system for facilitating trading. The system includes a computer having a processing component to process an order by retrieving a decision table having rules that specify at least one condition and at least one action to be taken when the at least one condition is satisfied. The decision table further includes a holding tank capable of storing a plurality of orders that have been generated but not yet submitted for execution at a market.

As claimed, the holding tank has one or more market-related conditions associated therewith. The processing component is further configured to monitor the one or more conditions of the holding tank and when the one or more conditions are met, to remove the orders from the holding tank and take at least one specified action with respect to each of the removed orders.

The foregoing features are not taught or suggested by Lupien. Accordingly, applicant submits that Claim 33 is in patentable condition.

Claims 35-39 are dependent on Claim 33 and are patentable for the same reasons as Claim 33, as well as for the additional subject matter they recite. Claims 35-39 are allowable over both Lupien and Tilfors, whether considered alone or in combination.

Claims 40 and 42-46

Claim 40 is directed to a computer-accessible medium having executable instructions stored thereon for facilitating trading. The instructions, when executed, cause a computer to process an order in accordance with a decision table, wherein the decision table has rules that specify at least one condition and at least one action to be taken when the at least one condition is satisfied. The decision table further includes a holding tank capable of storing a plurality of orders that have been generated but not yet submitted for execution at a market, wherein at least one action of at least one rule in the decision table is to store an order in the holding tank. The instructions, when executed, further cause the computer to monitor one or more market-related conditions associated with the holding tank and when the one or more market-related conditions are met, to remove the orders from the holding tank and take at least one specified action with respect to each of the removed orders.

As with Claim 34, the features of Claim 40 are not fairly taught or suggested by Lupien. Claims 42-46 are dependent on Claim 40 and thus are patentable for the same reasons as Claim 40, as well as for the additional subject matter they recite. The plurality of holding tanks recited in Claims 45-46 are not taught by Tilfors or Lupien.

CONCLUSION

Applicant respectfully requests withdrawal of the claim rejections and issuance of a notice of allowance. Should the Examiner identify any additional matters that need resolution prior to allowance, the Examiner is invited to contact the undersigned counsel by telephone.

Respectfully submitted,

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